

AGENCY MEMBERS PRESENT

Dr. Gene Caldwell, Chair
Carl Koella, III, Vice Chair
Bryan Atchley
Dr. E. Conrad Shackelford, designee for the TennCare Director
Faye Weaver, designee for the Comptroller of the Treasury
Greg Lammert
Dr. Charles Handorf
Kristin Coile, Designee for the Commissioner of Commerce and Insurance

AGENCY MEMBERS ABSENT

Peggy Troy

AGENCY STAFF PRESENT

Melanie M. Hill, Executive Director
Reid A. Brogden, General Counsel
Jim Christoffersen, Deputy General Counsel
Rhonda Blair, Office Manager
Sue Kerley, Administrative Assistant

GUESTS PRESENT

Arant, Scott, President, American Health Imaging
Baker, Graham, Esq., Weeks, Anderson & Baker
Barker, Terry, Architect, River Street Architecture
Becker, Daniel, Jay, M.D., President, Diagnostic Imaging PC
Bodary, Ron, V.P., Cumberland Medical center
Breedon, Susan, Administrator, Baptist Memorial Hospital-Huntingdon
Broadstone, Paul, M.D., Spine Surgery Associates PC
Brown, Dere, NHC
Chapman, Dick, Director Insurance Administration, State of Tennessee
Clark, Dwight, InteCardia-Tennessee East Diagnostic LLC
Crumley, Donna, Director, Endoscopy Center of Centennial
Day, Ed, Consultant
Delp, Benjamin, BBS
Dworkin, Jay, Dr., Fonar Corporation
Ellzey, Andy, M.D., Mid South Imaging and Therapeutics
Elrod, Dan, Esq., Miller & Martin
Henrett, Mark, American Health Imaging
Houchin, Barbara, Saint Thomas Health Services
Jahanzeb, Mohammad, M.D., University of Tennessee Cancer Institute
Jeremy Biggs, St. Mary's Health System
Jenkins, J., Randy, M.D., Professor, VA Hospital-Miami
Johnson, Darlene
Kettells Stephen, Fonar Corporation
Lee, Laurie, Director Health Planning, State of Tennessee
Limyansky, Robert, The Strategy House, Inc.
Lodge, Richard, Esq., Bass, Berry & Sims PLC
Looney, Kim, Esq., Waller Lansden Dortch & Davis PLLC
Lun, Rodney, SHG
Maples, Arthur, Director Strategic Analysis, Baptist Memorial Health
McKinley, Rudy, V.P. for Operations, East Tennessee Children's Hospital
McMackin, Jim, President, Cumberland Medical Center

HEALTH SERVICES AND DEVELOPMENT AGENCY

MARCH 23, 2005 MEETING

Page 1 of 7

Megison, Phil, M.D., The Neurosurgical Group of Chattanooga PC
Noll, Doug
Penny, Linda B., Comptroller's Office
Reid, Wayne, Director of Imaging, Centennial Medical Center
Richardson, Mike, V.P., Planning & Business Development, Covenant Health
Strait, Timothy A., M.D., The Neurosurgical Group of Chattanooga PC
Sydow, Phil, CEO, University of Tennessee Cancer Institute
Taylor, Jerry W., Esq., Farris, Mathews, Branam, Bobango, Hellen, & Dunlap
Trauger, Byron, Esq., Trauger, Ney & Tuke
Wellborn, John, Consultant, Development Support Group
West, Steve, CLO, Methodist Healthcare
West, William H., Esq., Baker Donelson, Bearman, Caldwell & Berkowitz
Wood, H. Lee, Administrator, The Neurosurgical Group of Chattanooga, PC
Yunus, Furhan, CMO, University of Tennessee Cancer Institute

Chairman Caldwell called the meeting to order at 8:30 a.m. at the Bell South Tower, Nashville, Tennessee.

DIRECTOR'S ANNOUNCEMENTS

Melanie Hill, Executive Director, made general announcements. It was noted that the Agency's sunset bill was scheduled to be heard March 23, 2005, in the House at 10:00 and in the Senate at 1:30. Ms. Hill also noted that InteCardia-Tennessee East Catheterization CN0411-106 and Collierville Diagnostic and Imaging Center CN0410-093 had been withdrawn. Additionally, Wilson County Outpatient Surgery Center CN0412-107 requested a deferral until the April 27, 2005 meeting. A reminder was given concerning the brief in-service training scheduled for April 27, 2005, immediately following the regular meeting. Ms. Hill introduced Ms. Laurie Lee who has recently become the Director of Health Planning in the Division of Finance and Administration

CONSENT CALENDAR

Ms. Hill summarized the following Consent Calendar applications:

Endoscopy Center of Centennial (Nashville, Davidson County) -- CN0501-002

The relocation of an existing four (4) procedure room ambulatory surgical treatment center limited to gastroenterology to an unaddressed site in the proposed State Street Medical Center office building on the north side of State Street between 17th and 18th Avenues North. The estimated project cost is \$4,433,649.00.

John Wellborn, representing the Applicant, spoke in support of the project. Donna Crumley, Director, Endoscopy Center of Centennial, was present in support of the project.

Ms. Hill noted this application met the criteria for Consent based upon: 1) Need – The need for the existing well utilized surgery center has been established. The current facility is a practice based facility that has integrated into Nashville Gastroenterologists Consultants, PC. The practice office was designed for a four physician practice, but a fifth physician is needed to assist with the current case load. Therefore the need for relocation is based upon the practice relocating to another building that would provide more space and a better floor plan. This will permit the facility to provide more efficient services. The relocation also provides the physician practice an opportunity to acquire equity ownership in the building; (2) Economic Feasibility – Of the total project cost, only \$1,711,153.00 is the actual capital expenditure. That amount will be financed by a commercial loan. The projected data chart demonstrates that the relocated facility will be profitable; and 3) Orderly Development – The facility proposes no change in ownership, capacity or staffing. The relocation is a seven block move that measures only one mile in distance. The relocation provides additional space for a more efficient workload. The facility has historically provided Medicare and TennCare services and will continue to do so.

Mr. Koella moved for approval of the project based on 1) Need - The need is there for the existing practice and expansion space; 2) Economic Feasibility - It is economically feasible with a commercial loan; and 3) Orderly Development - It is orderly. The licenses are appropriate and they are a TennCare provider. Dr. Handorf seconded the motion. The motion CARRIED [8-0-0] **APPROVED**

AYE: Coile, Shackelford, Lammert, Koella, Handorf, Atchley, Weaver, Caldwell
NAY: None

CERTIFICATE OF NEED APPLICATIONS

Ms. Hill summarized the following CON applications:

Cumberland Medical Center (Crossville, Cumberland County) -- CN0412-108

The initiation of a combination mobile positron emission tomography (PET) and computerized tomography (CT) imaging services. The project will provide leased mobile PET/CT services one (1) day per week on the hospital's campus. No other equipment will be purchased. The estimated project cost is \$642,000.00.

Dan Elrod, Esq., addressed the Agency on behalf of the project. Ron Bodary, V.P., Cumberland Medical Center, and Ed Day spoke in support of the project. Jim McMackin, President, Cumberland Medical Center, was present in support of the project.

Dr. Handorf moved for the approval of the application based on 1) Need - The need is established especially for the elderly population in that part of the state; 2) Economic Feasibility - Cash reserves are in place to pay for the project; and 3) Orderly Development - Orderly development is served. The hospital takes care of its share of TennCare. Ms. Coile seconded the motion. The motion CARRIED [8-0-0] **APPROVED**

AYE: Coile, Shackelford, Lammert, Koella, Handorf, Atchley, Weaver, Caldwell
NAY: None

Neuro Spine ASC (Chattanooga, Hamilton County) -- CN0412-111

The establishment of an ambulatory surgical treatment center (ASTC) for the purpose of performing spine surgery procedures of a lesser acuity. The ASTC will contain two (2) operating rooms and one (1) procedure room in leased space. The estimated project cost is \$3,191,854.00.

H. Lee Wood, Administrator, addressed the Agency on behalf of the project. Terry Barker, Architect, River Street Architecture, and Dr. Phil Megison, The Neurosurgical Group of Chattanooga, spoke in support of the project. Dr. Paul Broadstone, Spine Surgery Associates, PC, and Dr. Timothy A. Strait, the Neurosurgical Group of Chattanooga, were present in support of the project.

Mr. Koella moved for approval of the project for the establishment of a single specialty ambulatory surgery center **limited to the orthopedic and neuro surgical sub-specialties of spine surgery procedures of a lesser acuity containing two (2) operating rooms and one (1) procedure room** based on 1) Need - The need is there with the demographics and the aging of that area; 2) Economic Feasibility - It is economically feasible; and 3) Orderly Development - The licenses are in order. Mr. Ashley seconded the motion. The motion CARRIED [8-0-0] **APPROVED** **LIMITED: To the orthopedic and neuro surgical sub-specialties of spine surgery procedures of a lesser acuity containing two (2) operating rooms and one (1) procedure room.**

AYE: Coile, Shackelford, Lammert, Koella, Handorf, Atchley, Weaver, Caldwell
NAY: None

Baptist Memorial Hospital-Huntingdon (Huntingdon, Carroll County) -- **CN0412-113**

The discontinuance of obstetric labor and delivery services. There will be no change in the licensed total bed count of seventy (70) beds. No major medical equipment or new services are involved. The estimated project cost is \$5,000.00.

Dan Elrod, Esq., addressed the Agency on behalf of the project. Susan Breeden, Administrator, Baptist Memorial Hospital-Huntingdon, and Arthur Maples, Director Strategic Analysis, Baptist Memorial Health, spoke in support of the project.

Dr. Shackleford moved for approval of the project based on 1) Need – The need has been shown with the decreasing number of deliveries and the lack of providers in the area; 2) Economic Feasibility – It is economically feasible with the cash available; and 3) Orderly Development – It does contribute to orderly development of healthcare in that they do have a facility eleven (11) miles away with adequate providers to cover the deliveries. Mr. Lammert seconded the motion. The motion CARRIED [8-0-0] **APPROVED**

AYE: Coile, Shackleford, Lammert, Koella, Handorf, Atchley, Weaver, Caldwell
NAY: None

Centennial Medical Center (Nashville, Davidson County) -- **CN0412-118** *(taken out of order due to Chairman Caldwell, Director Hill and General Counsel Brogden attending the hearing of the Agency's sunset bill in the House.) The project was summarized by James B. Christoffersen, Deputy General Counsel.*

The acquisition of a fourth (4th) magnetic resonance imaging (MRI) unit, relocation of the existing MRI to the main hospital, and the remodeling of the existing MRI areas within the Centennial Imaging Center (CIC) facility. The 615-licensed hospital beds will remain unchanged. The estimated project cost is \$3,650,685.00

Jerry Taylor, Esq., addressed the Agency on behalf of the project. John Wellborn, Consultant, and Wayne Reid, Director of Imaging Centennial Medical Center, were present in support of the project.

Ms. Coile moved for the approval of the project, based on 1) Need – The need has been shown due to the high volume of the current scanners at the facility and also within the service area. They meet the 2200 threshold; 2) Economic Feasibility – It is economically feasible with cash on hand; and 3) Orderly Development – It is orderly as they are a good TennCare provider in the community and there is no opposition. Mr. Atchley seconded the motion. The motion CARRIED [7-0-0] *(Dr. Caldwell was absent for the vote.)* **APPROVED**

AYE: Coile, Shackleford, Lammert, Koella, Handorf, Atchley, Weaver
NAY: None

Dr. Handorf recused

Memphis Health Imaging, LLC (Memphis, Shelby County) -- **CN0412-116**

The establishment of an outpatient diagnostic center (ODC) for a freestanding magnetic resonance imaging (MRI) unit. Major medical equipment includes a Fonar Stand-Up MRI unit. No beds are involved. The estimated project cost is \$3,885,541.00

Byron Trauger, Esq., addressed the Agency on behalf of the project. Dr. Daniel Becker; Dr. J. Randy Jenkins, VA Hospital-Miami; Dr. Jay Dworkin, Fonar Corporation; and Scott Arant, President, American Health Imaging, spoke in support of the project. Robert Limyansky, The Strategy House, Inc., was present in support of the project.

William West, Esq., on behalf of St. Francis Hospital; Dr. Andy Ellzey; Dan Elrod, Esq., representing Baptist Memorial; Jerry Taylor, Esq., representing Methodist Healthcare-Memphis; and E. Graham Baker, Esq., representing MedQuest & Health South, addressed the Agency in

opposition to the project. Arthur Maples, Director, Strategic Analysis, Baptist Memorial Hospital, was present in opposition to the project.

Byron Trauger, Esq., and Dr. Randy Jenkins rebutted.

Dan Elrod, Esq., provided summation for the opposition.

Byron Trauger, Esq., provided summation for the applicant.

Mr. Lammert moved for the denial of the project, based on the failure of the applicant to conclusively show there is a need or that this will contribute to the orderly development of healthcare in the Memphis area. There are a large number of providers of MRI services and the physicians have other means to diagnose the same issues addressed. Dr. Shackleford seconded the motion. The motion CARRIED [7-0-0] **DENIED**

AYE: Coile, Shackleford, Lammert, Koella, Atchley, Weaver, Caldwell
NAY: None
RECUSED: Handorf

Knoxville Health Imaging, LLC (Knoxville, Knox County) -- CN0412-117

The establishment of an outpatient diagnostic center (ODC) for a freestanding magnetic resonance imaging (MRI) center. Major medical equipment includes a Fonar Stand-Up MRI unit. No beds are involved. The estimated project cost is \$3,813,299.00

Byron Trauger, Esq., addressed the Agency requesting a deferral of this matter.

Jerry Taylor addressed the Agency in opposition to the deferral.

Dr. Handorf moved to defer the project for ninety (90) days. Ms. Weaver seconded the motion. The motion FAILED [3-5-0] **DENIED**

AYE: Coile, Handorf, Weaver
NAY: Shackleford, Lammert, Koella, Atchley, Caldwell

Byron Trauger, Esq., addressed the Agency on behalf of the project. Robert Limyansky, The Strategy House, Inc.; Dr. Jay Dworkin, Fonar Corporation; Dr. J. Randy Jenkins, VA Hospital-Miami; Dr. Daniel Jay Becker, President, Diagnostic Imaging PC; and Scott Arant, American Health Imaging, were present in support of the project.

Dan Elrod, Esq., representing Covenant Health; Jerry Taylor, Esq., representing University Health System and St. Mary's Medical Center; and Rudy McKinley, V.P. for Operations, East Tennessee Children's Hospital, addressed the Agency in opposition to the project. Mike Richardson, V.P. Planning & Business Development, Covenant Health, was present in opposition to the project.

Byron Trauger, Esq., rebutted.

Dan Elrod, Esq., waived summation for the opposition.

Byron Trauger, Esq., provided summation for the applicant.

Mr. Atchley moved for the denial of the project, based on the failure of the applicant to show need and a contribution to the orderly development of healthcare. There are concerns regarding the cost feasibility with the almost non-participation and lack of cooperation with the local hospitals. Dr. Handorf seconded the motion. The motion CARRIED [8-0-0]

AYE: Coile, Shackleford, Lammert, Koella, Handorf, Atchley, Weaver, Caldwell
NAY: None

GENERAL COUNSEL'S REPORT

East Tennessee Children's Hospital (Knoxville, Knox County) -- CN0112-095A

Request to extend the expiration date from May 1, 2005 to October 1, 2005 and to increase costs from \$31,670,000.00 to \$34,434,000.00, for a difference of \$2,764,000.00. The original CON was issued April 17, 2002.

Rudy McKinley, V.P., East Tennessee Children's Hospital, addressed the Agency on behalf of the request.

Mr. Koella moved to approve the request to extend the expiration date from May 1, 2005, to October 1, 2005, and to increase the costs from \$31,670,000.00 to \$34,434,000.00. The need is there. It is economically feasible, and it does contribute to the orderly development. Mr. Atchley seconded the motion. The motion CARRIED [8-0-0] **APPROVED**

AYE: Coile, Shackleford, Lammert, Koella, Handorf, Atchley, Weaver, Caldwell
NAY: None

Dr. Handorf recused

InteCardia-Tennessee East Diagnostic, LLC (Memphis, Shelby County) -- CN0011-112A

The Agency was asked to make a policy determination as to whether a request for modification to lift a condition limiting positron emission tomography (PET) services to cardiac patients is appropriate for consideration as a modification. Staff recommended that a new CON be filed so that proper notice could be given and the criteria for granting a CON can be analyzed. No vote on the specific modification was recommended.

Kim Looney, Esq., Greg Duckett, and Warren Gooch, Esq., addressed the Agency on the matter of a policy determination as to whether the removal of any limitation upon or expansion of PET services would be appropriate for consideration as a modification.

Mr. Koella moved to adopt a policy that the removal of any limitation upon or expansion of PET services would not be appropriate for consideration as a modification. Dr. Shackleford seconded the motion. The motion CARRIED [4-0-3] **APPROVED**

AYE: Shackleford, Koella, Atchley, Caldwell
NAY: None
ABSTAIN: Coile, Lammert, Weaver
RECUSED: Handorf

Mr. Koella moved to defer the request of InteCardia-Tennessee for modification of CN0011-112A to lift a condition limiting positron emission tomography (PET) services to cardiac patients until the April 27, 2005 meeting. Mr. Lammert seconded the motion. The motion CARRIED by unanimous voice vote [7-0-0] **DEFERRED**

AYE: Coile, Shackleford, Lammert, Koella, Handorf, Atchley, Weaver, Caldwell
NAY: None
RECUSED: Handorf

CURRENT REPORTS

Statistical Reports

The reports were accepted into the record.

Finance, Ways and Means Committee Reports

The reports were accepted into the record.

Minutes

Mr. Koella moved for approval of the minutes of the February 23, 2005 meeting as written.
Mr. Lammert seconded the motion. The minutes were accepted by unanimous voice vote [8-0-0]

APPROVED

ADJOURNMENT

There being no further business, the meeting adjourned.

Melanie M. Hill, Executive Director

MMH:sk